

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN BREWER,

Defendant.

Case No. 2:15-cr-00301-HDM-VCF

ORDER

The defendant has filed a motion contesting the restitution order in this case. (ECF No. 77). The defendant's judgment of conviction was entered on June 27, 2016, (ECF No. 43), and on appeal, the Ninth Circuit affirmed the restitution order. (ECF No. 60).

Generally, the court lacks authority to modify a judgment of conviction after it is entered except under certain limited circumstances not applicable here. 18 U.S.C. § 3582(c); Fed. R. Crim. P. 35; Fed. R. Crim. P. 36; *United States v. Ceballos*, 671 F.3d 852, 854 (9th Cir. 2011). To the extent the motion may be construed as arising under 28 U.S.C. § 2255, it is an unauthorized second or successive motion and must be dismissed for lack of jurisdiction. 28 U.S.C. § 2255(h).

Accordingly, the defendant's motion contesting restitution (ECF No. 77) is DISMISSED WITHOUT PREJUDICE to the extent it arises under § 2255. The motion is, in all other respects, DENIED.

IT IS SO ORDERED.

DATED: This 14th day of July, 2020.



UNITED STATES DISTRICT JUDGE